

REMARKS/ARGUMENTS

Reconsideration of this application and entry of this Amendment are solicited. Claims 1-5 and 7-21 continue to be in the application, however modifications to various claims have been made.

In order to more closely align the claimed subject matter with comparative evidence of record, claims 1 and 15 have been amended to define the fat-soluble active ingredient as a fat-soluble vitamin which is discussed in some detail in the description of the invention on page 2 of the specification beginning at line 6. As a consequence, claim 12 has been amended and is directed to vitamin D, one of the preferred fat-soluble vitamins useful in the present invention.

Claims 1 and 15 are amended to define the milk protein to have a degree of hydrolysis of 3.5% to 25% and that the plant protein is a plant protein or a plant protein hydrolysate. These changes resolve the rejections stated on pages 2-4 of the Action.

The Official Action includes two newly cited references and to the extent, if any, they pertain to the amended claims above, applicants make the following observations.

Buikstra does not teach or describe that which is defined in applicants' claims in fact, Buikstra always uses a combination of ingredients with lecithin. Applicants do not do this. Further, Buikstra does not use lecithin and associated materials as a matrix for the stabilization of fat-soluble vitamins, hence this newly cited reference certainly does not pertain to the amended claims as presented above. Newly cited Martinez does not disclose a matrix which is an important feature of the claims of the present application. Again, there is no fat-soluble vitamin mentioned in this document. Martinez appears to be disclosing a mixture of whey and casein. Whey, of course, is a milk product. Applicants do not see mention of plant proteins in the Martinez disclosure thus further distancing it from the claims of the present application.

Only one of the several prior art-based rejections involved claim 12 and with the amendments made to the claims many of the newly argued rejections are no longer pertinent.

Further, the amendments to the claims directly respond to the examiner's comments bridging pages 13 and 14 of the Action and specifically, applicants' claims are drawn to fat-soluble vitamins, in particular vitamin A, as the active ingredient. Applicants disagree with the examiner's assertion that the differences between the now claimed subject matter and that contained in the now comparative examples is significant and constitutes a difference in kind

thus applicants request further consideration of this evidence in light of the amendments made to the claims.

Applicants and counsel are well aware of the continued provisional obviousness-type double patenting rejections included in the current Official Action; see the discussion beginning on page 15 of the current Action. Again, applicants will hold a full and complete response to these provisional rejections in abeyance until such time as claims are indicated to be allowed or allowable in the subject application.

All outstanding issues have been addressed and this application is in condition for allowance. Should any minor issues remain outstanding, the Examiner should contact the undersigned at the telephone number listed below so they can be resolved expeditiously without need of a further written action.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 14-1140.

Respectfully submitted,

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